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Thousands of ticking Jihadi time bombs

With countries around the world facing a Jihadi threat that sprung up on their territory, they are looking to the UN Security Council's anti-terror body (CTED). In a special interview, CTED's senior official, Israeli counter-terror expert Dr. David Scharia, talks to Ronen Bergman about the day when the Western recruits to the Islamic State decide to return home.

Ronen Bergman, New York

On September 21, US President Barack Obama appeared at the UN Security Council to head a special meeting of world leaders that focused on the fight against terror and, more precisely, the fight against Islamic State. Obama presented the Security Council with a revolutionary proposal to require all the world's states to enact laws and adopt a series of measures to successfully cope with and restrict what now appears to be the most threatening aspect of the Islamic State phenomenon – that is, the foreign terrorist fighters from all around the world, coming to help the organization in the Middle East, and those who could return thereafter to their countries of origin.

Obama's proposal is premised on substantial legislative change that would allow the countries from which the volunteers are departing to stop them, to prevent them from leaving, and to prosecute those planning and preparing to set out for the Middle East. In the wake of such legislation, countries will also have an obligation to prosecute anyone and everyone who helps these fighters reach Syria and Iraq, even if the assistance amounts to nothing more than the purchasing of an air ticket.

Such a move, legal experts worldwide concur, would undoubtedly impose significant restrictions on an individual's freedom of movement. Picture this: someone wants to go "to provide humanitarian aid" to his Muslim brothers who are rebelling against the regime of Syrian President Bashar Assad, and the government of Britain or France or Germany arrests, tries and jails him just because he purchased an air ticket to Turkey, from where he planned to set out.

David Scharia: You need to deal with the root causes of terror. (Photo: Ilan Shapira)

Few know that a key partner to this initiative, as well as other revolutionary proposals announced by Obama in the same speech, was the UN Security Council's primary anti-terror body, the Counter Terrorism Executive Directorate (CTED). And following the said meeting, the Security Council tasked the CTED with promoting a global solution to the phenomenon of the foreign terrorist fighters. The Directorate was asked to identify the major problems that encourage the phenomenon and the countries that are particularly susceptible to it, to examine which solutions work and which don't, and to assist countries that are struggling to deal with the phenomenon themselves.

If there is anything that is currently troubling the CTED more than Islamic State of today, it's the day after Islamic State.
While the murderous organization's beheading videos continue to shock the world each time anew, Dr. David Scharia, the head of CTED's legal group, presents the figures that could form the next major strategic threat: According to the latest UN estimates, around 20,000 of the Islamic States activists are

volunteers who have joined the organization from all around the world, and their numbers are increasing.

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Islamic State, Scharia says, includes volunteers from approximately 90 countries, including from Europe and North America, and also several dozen from Israel. One day, when Islamic State falls apart or ceases to be attractive, thousands of Mujahideen – all seeped in Jihadist ideology, with comprehensive guerrilla warfare training and extensive combat experience – will neatly pack away their black flags and return home, to mother.

"A large number of them will return home more radical," Scharia says, "with a whole lot more operational experience, with military capabilities and, no less important, with a network of ties they can maintain via technological means that were not at their disposal 10 or 15 years ago. This presents a danger the likes of which we've never seen before, something new and extremely threatening. According to our professional assessments, of the 90 countries from which volunteers have departed, more than half are in a state that we call, 'seriously affected by it' – in other words, countries that are under serious threat with the return home of those volunteers."

Why is this a new threat? After all, volunteers went to assist the Mujahideen fighters in Afghanistan in the 1980s and subsequently went on to become al-Qaeda's international core.

"True, there were volunteers in Afghanistan and Bosnia too, but we're dealing here with something quite different. With al-Qaeda, you had Ayman al-Zawahiri (Osama bin Laden's deputy and current leader of the organization) who would sit and make audio and video recordings. He spoke and spoke and spoke. If by chance you listened and didn't fall asleep, you may have ended up joining al-Qaeda. Islamic State works differently: It has significant control over the social networks; it produces fast-moving clips that look like they were taken straight out of a Hollywood thriller, and there's much glorification.

"And there are two more fundamental differences – the volunteer numbers, which are incomparably greater, and the young ages. In Bosnia, for example, the volunteers were in the 25-30 age group. Some, by the way, remained in Bosnia, raised families, settled there, left the life of terror, and aren't even thinking about going home. We're dealing today with very young guys, a large portion of them between the ages of 15 and 20.

"We received information just recently about two 15-year-old girls, of Bosnian origin, who left Austria, where they had been living in recent years; and everyone, the families and the intelligence services of the two countries, is looking for them. Both were recruited by Islamic State. One was killed in the fighting in Syria, the other has disappeared.

"In other words, we're talking here about people who can be operational for at least another 10 to 15 years; and today, with the social networks, they can operate across the globe in real time. It has become increasingly difficult to keep track of them; they are more extreme, and some will certainly return home with post-trauma, a condition that could cause them to go back to committing acts of violence. This is an extraordinary risk."

The Chrysler Building, rising 319 meters skyward, is one of New York's most recognizable architectural edifices. Only a few know that from here, from an extraordinarily secured side wing of the skyscraper, the UN is managing one of the most significant and most extensive battles in modern history – the fight against international terrorism. Welcome to the Counter Terrorism Executive Directorate of the Security Council. Here, dozens of terror experts from around the world sit and monitor and analyze the global terror threat around the clock.

One of the most important and busiest divisions here is the legal team, headed by the 46-year-old Scharia. Before joining the UN to fight Islamic State, al-Qaeda and their ilk, Scharia served as a senior attorney in the office of the attorney general and was involved in numerous highly charged cases in Israel. Today, he is at the forefront of the fight against global terror, but he hasn't forgotten the images and harsh scenes from the terror attacks in Israel.

"I've seen dozens of terror victims in my lifetime," Scharia says in a special interview to Yedioth Ahronoth. "One of the most important cases I handled during those years was the case of the terror attack on Moriah Boulevard in Haifa. Many young people, including children on their way home from school, were murdered by a suicide bomber on a bus. The painful encounter with the families and their

testimonies in the Supreme Court are forever etched in my memory. So yes, I feel that what I am doing today at the UN is helping to reduce the number of terror victims, and perhaps someday there'll be no more children murdered on the way home from school."

Horrific scenes

Established after the September 11 attacks, the CTED includes experts in all areas related to the global fight against terrorism – specialists in the fields of intelligence, finance and terror-funding, arms control, aviation safety, investigations and, of course, legal experts. Responsible for identifying the weak points in the global fight against terrorism, reporting its findings to the UN Security Council's Counter-Terrorism Committee and promoting international solutions, the CTED benefits from the huge financial resources the UN and its members devote to the fight against terror, and enjoys the cooperation of intelligence and police officials and the academia from all over the world.

The Directorate's experts are based in New York, but most of their work is carried out via visits to the various countries. A delegation of CTED experts, joined if required by international terror experts and Interpol officials, will visit a country, meet with representatives of its security branches and senior political echelon, and together assess the particular country's preparedness to deal with the terror threats it faces. The confidential report drawn up following the visit serves to allow the CTED to assess how to help the country deal with these dangers.

On Monday, December 8, New York University's Law School hosted a special conference, headed by former Israeli Supreme Court president Dorit Beinisch, to mark the launch of Scharia's book, Judicial Review of National Security (Oxford University Press). The event was attended by senior intelligence officials from numerous countries, as well as a significant number of legal experts and high-ranking UN personnel. Everyone was there to hear about the highly charged encounter with which the book deals – the point at which the law meets the fight against terrorism. Scharia has been manning this intersection for the past 20 years.

Scharia was born into a national-religious family in Netanya and studied at the Bnei Akiva yeshiva in the city; and to this day, he spices up his words with quotations from the Talmud and Mishnah and even offers his colleagues in New York, some of them Christian and Muslim jurists from the Middle East, insights to a Talmudic issue every now and then. A bright student, Scharia graduated from high school a year and a half early and joined a yeshiva.

"There, I came to the conclusion that my path and the path of the Torah and commandments don't always go together," he says.

He left the yeshiva to take up law studies, and ended up doing his internship at a large law firm that specialized in corporate law. "But I hated every day in the office," he recalls. "I couldn't relate to the field at all. I also didn't get the point of transferring money from one millionaire to another. Archaeological struggles of sorts: They, the millionaires, have long since closed five new deals, and the lawyers are still bickering over the previous one."

Scharia discovered that he was drawn in fact by criminal law, and he secured a position in the State Prosecution's Central District office. He remembers well that he started work on a Thursday, and that he went two days later with a friend to participate in the big peace rally that took place in the heart of Tel Aviv on November 4, 1995. He recalls hearing the gun shots just a few dozen meters from where he was standing, and then seeing Yitzhak Rabin evacuated to Ichilov Hospital and the assassin who shot him, Yigal Amir, apprehended.

On the Sunday thereafter, the office he walked into was no longer the same office he had left just a few days earlier; chaos reigned. "The attempt to understand what had happened in the country, in the Shin Bet and in the State Prosecution before the murder pained me and fascinated me, so I asked the district attorney to pass on relevant cases to me."

This was the beginning of Scharia's preoccupation with terrorism and incitement to terrorism. The cases

he handled then left their mark on him and influenced the way in which he conducts his work today at the UN.

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"I have no doubt that during the period before the murder, the State Prosecution failed to do enough to prevent it," he says. "Today, 20 years later, and in view of the endless number of studies and the vast amount of data that comes in to CTED, we can definitively say that there is a strong link between incitement and legitimacy for terrorism. Incitement gives rise to the sense that action must be taken, and then there'll always be the one who says: 'I'll be the one to take action… I'll be the one to take on the responsibility; it's my destiny.' True, it occurs sometimes due to personal psychological factors… but that makes no difference; the act is committed under the shroud of incitement."

Yitzhak Rabin's assassination. 'The attempt to understand what had happened in the country before the murder pained me and fascinated me.' (Photo: Michael Kramer)

When you examined the material you gathered back then from the period before the assassination, did it offer sufficient evidence to bring charges of incitement against well-known rabbis?

"I can't go into details that have yet to be released for publication, but I believe that after the murder, too, not enough was done to hold accountable elements who had a direct influence on the atmosphere of incitement. They prosecuted various people who were heard justifying Amir in this or the other forum, but those trials had no effect at all. I believe that whoever affords legitimacy to the killing of civilians – Jews or Arabs, it makes no difference – should be prosecuted.

"This understanding later acquired international dimensions, too, when the Security Council – following the London bombings in 2005 and what, as it turned out, had been going on in the mosques there beforehand – adopted a decision that require all countries to prohibit incitement to terrorism. It turned out that it is impossible to combat terror only with law enforcement tools used against the terrorists. You need to deal with the root causes, and the incitement at their center."

Alongside the cases he handled against right-wing Jewish extremists, Scharia also dealt with many cases involving Arab terror activists, or those accused of aiding and abetting terror. One very well-known case was the prosecution of the head of the northern branch of the Islamic Movement, Sheikh Raed Salah, for involvement in the financial network that channeled large sums of money to Hamas institutions.

"Our argument then was that even if it was true that most of the money did indeed go to Hamas' welfare operations in the territories and was not earmarked for terror activities, the moment someone turns Hamas into the cash box from which the poor come to get money, education, youth group, you are actually strengthening Hamas."

In 2001, with the second intifada in full swing, Scharia was working at the Supreme Court Criminal Department, where he found himself involved in a series of cases and investigations that exposed him to numerous harsh images and scenes. Particularly etched in his memory is the file of photograph's he received from the Abu Kabir Forensic Institute following the terror attack at the Dolphinarium in Tel Aviv. "It was shocking," he recalls. "The photographs of the corpses and body parts from the explosion remain trapped in my heart to this day, and I take this memory with me to wherever I try to work to counter

terrorism – horrific scenes."

Scharia handled the trial of Mahmoud Nadi, an Arab resident of Israel who was accused of driving the suicide terrorist to the attack. Nadi was charged with knowing – at some stage of the drive at least – that

the man in the car beside him was not simply an illegal trying to get into Israel, but a suicide bomber about to perpetrate an attack.

"We reviewed the classified material we received from the Shin Bet and it really was a difficult dilemma: When exactly did he realize he was driving a suicide terrorist, and what does that say about the punishment he should receive? When they first set out? When he left Qalqilyah? When he crossed over the Green Line and so perhaps he deserves less punishment?

"It was one of the first times that a court in Israel was faced with the issue that deeply concerns us today in our international activities – the circle around the terrorists. Where you draw the line of law enforcement and criminal punishment in that external circuit – when people know something, hear something, see something, help with something, can prevent and/or don't prevent – after which you put them on trial? This issue, which in professional jargon the Americans call 'material support,' is not a clear-cut one at all.

"As far as the American approach goes, anything that an individual does that knowingly supports a terror organization is punishable, even going to give a talk to a terrorist organization on behalf of a human rights group could be cause for prosecution. Europe took a different route, saying that an individual should be put on trial only if he/she is directly involved in activities that lead to acts of terror."

Scharia from the State Prosecution in Israel, meanwhile, had made a name for himself among various international entities; and in 2005, he received an offer to apply for the position of legal officer at the CTED. He was hesitant at first, "because I didn't think an Israeli had a chance there;" but he took up the offer and got the job in the end. Over time, he rose through the ranks there, until his appointment last year to the position of coordinator of the CTED's legal and criminal justice working group.

President Reuven Rivlin. 'Doing sacred work in countering violent messages and in promoting tolerance. (Photo: Kobi Gideon/GPO)

Deliberate genocide

At some point, with the Syrian civil war escalating and turning bloodier, the CTED began hearing about a new organization – Islamic State. "The truth is the Russians were the first to raise the alarm," Scharia says. "They kept on saying that the story in Syria could end up with something a whole lot worse. They may have had their considerations; but in the end, they were more accurate with their forecasts than anyone else."

Was there an intelligence failure in detecting the rise of Islamic State?

"Do you know of an intelligence service that knows everything? What I can say is that beginning in mid-2013, we started receiving reports from intelligence and police officials in the countries in we visited about foreign terrorist fighters, people who are leaving to volunteer in the war in the Middle East. We realized we were dealing with something new, and big.

"The thing that raised the level of awareness and upped the alert was the story of Mohammed Merah, the Frenchman who carried out the terror attack in Toulouse (which occurred in 2012 and left seven

people dead, including a rabbi and three Jewish children; it emerged subsequently that the man had visited Afghanistan and was in contact with an Islamic organization).

"A new threat had been born, terrorists acting alone – an individual who goes to a battle zone and returns from there, and doesn't actually need anything from anyone in order to carry out a murderous

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